

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. A-5754**

**PETITION OF MARK AND ELISSA KELLETT**  
(Hearing held May 15, 2002)

**OPINION OF THE BOARD**  
(Effective date of Opinion, June 14 , 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioners propose to construct a one-story addition that requires a 4.92 foot variance as it is within 20.69 feet of the established front building line. The established front building line is 25.61 feet.

The subject property is Lots 64 and 65, Block 5, Brookmont Subdivision, located at 4101 Maryland Avenue, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 00449382).

Decision of the Board: Requested variance **denied**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioners propose to construct a 13.29 x 5.5 foot one-story addition/foyer.
2. The petitioners testified that their property is a narrow, pie-shaped lot, with a house that was built in the 1930s. The petitioners testified that their lot is located at the intersection of Maryland Avenue and Broad Street and that their property is sited at the peak of the intersection of the two streets.
3. The petitioners testified that the dimensions of their front yard are smaller than the two properties that adjoin their lot and that the proposed addition could not be elsewhere on the lot. The petitioners testified that they have spoken with their neighbors and that their neighbors support the variance request. The petitioners testified that the addition would be similar to other improvements in the neighborhood.

**FINDINGS OF THE BOARD**

Based upon the petitioners' binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(b) as follows:

- (a) *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the property has no exceptional topographical or other conditions that are not shared with the neighboring properties. The Board finds that the shape and size of the petitioners' lot is similar to the other neighboring and adjoining properties, as shown on Exhibit No. 13.

The Board notes that the original subdivision of the lots in the neighborhood was in the early 1900s and that most of the properties in the neighborhood are oddly shaped lots. The Board further notes that the road's curve does not impact or diminish the petitioners' building envelope.

The petition does not meet the requirements of Section 59-G-1.3(a) above and the Board did not consider the other requirements set forth in that section for the grant of a variance. Accordingly, the requested variance of 4.92 feet from the required 25.61 foot established front building line for the construction of a one-story addition is denied.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Allison Ishihara Fultz, seconded by Donald H. Spence, Jr., Chairman, with Donna L. Barron, Louise L. Mayer, and Angelo M. Caputo, in agreement, the Board adopted the foregoing Resolution.

---

Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing  
Opinion was officially entered in the  
Opinion Book of the County Board of  
Appeals this 14th day of June, 2002.

---

Katherine Freeman  
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland